

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

PHOENIX LIFE INSURANCE COMPANY and  
PHL VARIABLE INSURANCE COMPANY,

Plaintiffs,

v.

RAIDER-DENNIS AGENCY, INC., et al,

Defendants.

**Civ. No. 2:07-cv-15324**

**consolidated with**

**Civ. No. 2:08-cv-11562**

**Honorable Stephen J. Murphy, III**

**Honorable Mona K. Majzoub**

**JOINT STATEMENT OF RESOLVED AND UNRESOLVED ISSUES REGARDING  
MOTION BY ROSEN AND ROSEN TRUST TO COMPEL DISCOVERY  
FROM PHOENIX AND PHOENIX'S MOTION FOR PROTECTIVE ORDER**

Pursuant to the Court's Notice of Motion Hearing dated May 3, 2010 (Docket No. 70), the parties, including Phoenix Life Insurance Company, PHL Variable Insurance Company (collectively, "Phoenix"), Robert Rosen, and Frank J. Ellias as Trustee of the Rosen Family Irrevocable Trust (collectively, the "Rosen Parties"), hereby state the following resolved and unresolved issues relating to the Rosen Parties' Motion to Deem Admitted Requests for Admissions and to Compel Plaintiffs' Answer to First Set of Interrogatories and Requests for Production of Documents dated October 30, 2009 (Docket No. 46) and to Phoenix's Motion for Protective Order dated November 25, 2009 (Docket No. 56):

**The Rosen Parties' Motion (Docket No. 46)**

1. The Rosen Parties moved to deem admitted its Requests for Admission Nos. 1 and 2. The parties dispute whether Phoenix's answers to those requests were timely filed and, if

they were not timely filed, whether the Rosen Parties suffered prejudice and whether the requests should be deemed admitted. These issues remain unresolved.

2. The Rosen Parties moved to compel Phoenix to serve full answers to its First Set of Interrogatories and Requests for Production of Documents and to produce 30(b)(6) witnesses for deposition. The parties dispute whether Phoenix's responses were timely filed, whether Phoenix's objections have merit, and who should bear the burden of discovery if production is compelled. These issues are unresolved.

**Phoenix's Motion (Docket No. 56)**

1. Phoenix moved for a protective order as to the Rosen Parties 30(b)(6) deposition notices, interrogatories and requests for production of documents. The parties dispute whether the discovery requests would impose an undue burden upon Phoenix, whether the information sought is relevant, whether production of the requested discovery would impair third-party privacy rights, whether Phoenix's counsel sought to confer with Rosen's counsel prior to filing their motion, and whether the motion was timely filed. These issues remain unresolved.

DATED: May 6, 2010

Respectfully submitted,

Ellias & Elias, P.C.

CLARK HILL PLC

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 6, 2010, I electronically filed the Joint Statement of Resolved and Unresolved Issues of Phoenix Life Insurance Company, PHL Variable Insurance Company, Robert Rosen, and Frank J. Elias as Trustee of the Rosen Family Irrevocable Trust Regarding Motion by Rosen and Rosen Trust to Compel Discovery from Phoenix and Phoenix's Motion for Protective Order with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted,

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Date: May 6, 2010